

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALMA CANTRES

v.

JO ANN B. BARNHART

: CIVIL ACTION

:

: NO. 05-3792

:

:

MEMORANDUM AND ORDER

Kauffman, J.

May 1, 2007

Plaintiff filed her Complaint on July 27, 2005 seeking review of a decision by the Social Security Administration denying her social security disability benefits (docket no. 3). The Court issued a Scheduling Order on July 27, 2005 (docket no. 4), directing Plaintiff to file a Motion for Summary Judgment and brief supporting her request for review within 45 days of service of Defendant's Answer. Defendant filed an Answer on September 28, 2005 (docket no. 9). As of February 9, 2007, Plaintiff had neither filed a Motion for Summary Judgment nor requested relief from the summary judgment deadline established by the Scheduling Order. Accordingly, the Court issued an Order (docket no. 10) that Plaintiff's action would be dismissed pursuant to Rule 41.1(a) of the Local Rules of Civil Procedure unless she filed a written application with the Court within thirty days.

Plaintiff subsequently requested that the Court clarify its February 9, 2007 Order, and on March 2, 2007, the Court issued an Order (docket no. 12) notifying Plaintiff that her action would be dismissed unless she (1) filed a written application with the Court within thirty days indicating that she intended to pursue her action, and (2) filed a Motion for Summary Judgment and brief supporting her request for review within thirty days. On March 30, 2007, Plaintiff filed an application with the Court stating that she wished to proceed with her case and requesting that the Court appoint counsel to represent her (docket no. 13). Plaintiff failed to file a Motion for Summary Judgment and brief supporting her request for review.

Upon consideration of Plaintiff's application to proceed with her case and request for counsel, it is **ORDERED** that on or before May 31, 2007, Plaintiff shall file either a Motion for Summary Judgment and brief supporting her request for review or a Motion for Appointment of Counsel. If Plaintiff files a Motion for Appointment of Counsel, such Motion shall include a showing that her claims have some merit in fact and law, and a statement of the following:

- (a) her efforts to retain an attorney to represent her in this action;
- (b) her education, literacy, prior work experience, and prior litigation experience;
- (c) her ability to understand English;
- (d) the degree to which factual investigation will be required and her ability to pursue such investigation;
- (e) whether she has access to a typewriter, photocopying machine, telephone, or computer;
and
- (f) any other facts that might assist the Court in determining whether counsel should be appointed.

Tabron v. Grace, 6 F.3d 147, 156-58 (3d Cir. 1993). If Plaintiff fails to file either a Motion for Summary Judgment and brief supporting her request for review or a Motion for Appointment of Counsel on or before May 31, 2007, this action will be dismissed.

BY THE COURT:

/s/ Bruce W. Kauffman
BRUCE W. KAUFFMAN, J.